



Office of the Attorney General
State of Texas

January 17, 1997

DAN MORALES
ATTORNEY GENERAL

Mr. Scott A. Kelly
Assistant General Counsel
The Texas A&M University System
301 Tarrow, 6th Floor
College Station, Texas 77843-1230

OR97-0100

Dear Mr. Kelly:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103036.

Prairie View A&M University (the "university") received a request for all university police files concerning a former employee. The requestor also seeks the personnel file of the person.¹ You claim that the information is excepted from required public disclosure by section 552.108 of the Government Code. We have reviewed the documents that you have submitted.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open Records Decision No. 150 (1977) (presumption of openness overcome by showing that information is made confidential by another source of law or affects third party interests).

In this instance, the request for information to the university is dated September 23, 1996. You sought an open records decision from this office on October 18, 1996.

¹As the personnel file was not submitted to this office for review, we presume that the university has released this information to the requestor.

Consequently, you have not met your burden under section 552.301 of the act. *See* Gov't Code 552.308(1).

In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information to this requestor. Open Records Decision No. 195 (1978). *See also* Open Records Decision 586 (1991) (need of another governmental body to withhold requested information may provide compelling reason for nondisclosure). We note, however, that the information at issue may be confidential. Thus, if someone other than the subject of the investigation or their attorney requests the information, the city should reassert its arguments against disclosure at that time. Gov't Code § 552.023 (right of access to records that contain information relating to person that are protected from public disclosure by laws intended to protect that person's privacy interests); *see also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense); *United States Dep't. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (individual's right to privacy implicated where individual's criminal history information has been compiled by governmental entity); *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977) (common-law privacy); Open Records Decision No. 600 (1992) (personal financial information).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 103036

Enclosures: Submitted documents

cc: Mr. Chris Yokus
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(w/o enclosures)